

1 HB433
2 103232-5
3 By Representative England
4 RFD: Judiciary
5 First Read: 05-FEB-09
6 PFD: 02/05/2009

8 SYNOPSIS: This bill would provide that a person could
9 be charged with solicitation of a child under this
10 section if the person utilizes a computer, computer
11 on-line service, Internet service, Internet
12 bulletin board service, or any other electronic
13 communication or storage device to solicit a child.

14 The bill would specify that a person would
15 be guilty of the offense even if the person the
16 defendant believed to be a child was an undercover
17 operative of law enforcement or a law enforcement
18 officer, a meeting did not occur, or the actor did
19 not intend for a meeting to occur.

20 This bill would remove the age limit for a
21 person who solicits a child by a computer or other
22 electronic device.

23 The bill would make it a crime for a person
24 to compile, transmit, buy, sell, or disseminate any
25 identifying information or location of a child for
26 the purpose of facilitating the solicitation of a
27 child for sexual conduct or child pornography.

1 The bill would make it a crime for the owner
2 or operator of a computer or on-line service to
3 knowingly permit anyone to use the service to
4 seduce or lure a child.

5 The bill would make it a separate offense to
6 travel to meet a child for the purpose of engaging
7 in an unlawful sex act.

8 The bill would make it a separate offense to
9 facilitate the transport of a child for the purpose
10 of engaging in an unlawful sex act.

11 Amendment 621 of the Constitution of Alabama
12 of 1901, now appearing as Section 111.05 of the
13 Official Recompilation of the Constitution of
14 Alabama of 1901, as amended, prohibits a general
15 law whose purpose or effect would be to require a
16 new or increased expenditure of local funds from
17 becoming effective with regard to a local
18 governmental entity without enactment by a 2/3 vote
19 unless: it comes within one of a number of
20 specified exceptions; it is approved by the
21 affected entity; or the Legislature appropriates
22 funds, or provides a local source of revenue, to
23 the entity for the purpose.

24 The purpose or effect of this bill would be
25 to require a new or increased expenditure of local
26 funds within the meaning of the amendment. However,
27 the bill does not require approval of a local

1 governmental entity or enactment by a 2/3 vote to
2 become effective because it comes within one of the
3 specified exceptions contained in the amendment.
4

5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 To provide that a person could be charged with
10 solicitation of a child if the person utilizes a computer,
11 computer on-line service, Internet service, Internet bulletin
12 board service, or other electronic communication or storage
13 device to solicit a child for the purpose of committing an
14 unlawful sex act; to make it a crime to compile or disseminate
15 identifying information of a child for the purpose of
16 facilitating the solicitation of a child for sexual conduct or
17 child pornography; to make it unlawful for an owner or
18 operator of a computer on-line service to permit anyone to use
19 the service to seduce or lure a child; to make it a separate
20 offense to travel to meet a child for the purpose of engaging
21 in an unlawful sex act; to make it a separate offense to
22 facilitate the transport of a child for the purpose of
23 engaging in an unlawful sex act; to specify that the crime may
24 be committed if the person the defendant believed to be a
25 child was a law enforcement officer, a meeting did not occur,
26 or the actor did not intend for a meeting to occur; to remove
27 the age limit for a person who solicits a child by a computer;

1 to provide penalties; to repeal Section 13A-6-110, Code of
2 Alabama 1975, relating to the offense of soliciting a child
3 for sexual conduct by computer; and in connection therewith
4 would have as its purpose or effect the requirement of a new
5 or increased expenditure of local funds within the meaning of
6 Amendment 621 of the Constitution of Alabama of 1901, now
7 appearing as Section 111.05 of the Official Recompilation of
8 the Constitution of Alabama of 1901, as amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. For the purposes of this act, a child is
11 defined as a person under 16 years of age.

12 Section 2. Facilitating Solicitation of Unlawful
13 Sexual Conduct with a Child. A person who knowingly compiles,
14 enters into, or transmits by use of computer or otherwise;
15 makes, prints, publishes, or reproduces by computerized or
16 other means; knowingly causes or allows to be entered into or
17 transmitted by use of computer or otherwise; or buys, sells,
18 receives, exchanges, or disseminates any notice, statement, or
19 advertisement of any child's name, telephone number, place of
20 residence, other geographical location, physical
21 characteristics, or other descriptive or identifying
22 information for the purpose of facilitating, encouraging,
23 offering, or soliciting unlawful sexual conduct of or with any
24 child, or the visual depiction of such conduct, is guilty of
25 facilitating solicitation of unlawful sexual conduct with a
26 child. Any person who violates this section commits a Class C
27 felony.

1 Section 3. Electronic Solicitation of a Child. In
2 addition to the provisions of Section 13A-6-69, Code of
3 Alabama 1975, a person who, knowingly, with the intent to
4 commit an unlawful sex act, entices, induces, persuades,
5 seduces, prevails, advises, coerces, lures, or orders, or
6 attempts to entice, induce, persuade, seduce, prevail, advise,
7 coerce, lure, or order, by means of a computer, on-line
8 service, Internet service, Internet bulletin board service,
9 weblog, cellular phone, video game system, personal data
10 assistant, telephone, facsimile machine, camera, universal
11 serial bus drive, writable compact disc, magnetic storage
12 device, floppy disk, or any other electronic communication or
13 storage device, a child who is at least three years younger
14 than the defendant, or another person believed by the
15 defendant to be a child at least three years younger than the
16 defendant to meet with the defendant or any other person for
17 the purpose of engaging in sexual intercourse, sodomy, or to
18 engage in a sexual performance, obscene sexual performance, or
19 sexual conduct for his or her benefit or for the benefit of
20 another, is guilty of electronic solicitation of a child. Any
21 person who violates this section commits a Class B felony.

22 Section 4. Facilitating the On-line Solicitation of
23 a Child. Any owner or operator of a computer on-line service,
24 weblog, Internet service, or Internet bulletin board service,
25 who knowingly permits any person to use the service to commit
26 a violation of this act is guilty of facilitating the on-line

1 solicitation of a child. Any person who violates this section
2 commits a Class B felony.

3 Section 5. Traveling to Meet a Child for an Unlawful
4 Sex Act. Any person who travels either within this state, to
5 this state, or from this state by any means, who attempts to
6 do so, or who knowingly causes another to do so or to attempt
7 to do so for the purpose of engaging in any unlawful sex act
8 with a child, including sexual intercourse, sodomy, a sexual
9 performance, obscene sexual performance, or other sexual
10 conduct for his or her benefit or for the benefit of another
11 shall be guilty of traveling to meet a child for an unlawful
12 sex act. Any person who violates this section commits a Class
13 A felony. Notwithstanding any law to the contrary, a
14 conviction under this section shall be considered a criminal
15 sex offense under Section 15-20-21, Code of Alabama 1975.

16 Section 6. Facilitating the Travel of a Child for an
17 Unlawful Sex Act. Any person who facilitates, arranges,
18 provides, or pays for the transport of a child for the
19 purposes of engaging in an unlawful sex act with a child,
20 including sexual intercourse, sodomy, a sexual performance,
21 obscene sexual performance, or other sexual conduct for his or
22 her benefit or for the benefit of another shall be guilty of
23 facilitating the transport of a child for an unlawful sex act.
24 Any person who violates this section commits a Class A felony.

25 Section 7. For purposes of determining jurisdiction
26 of this act, the offense is committed in this state if any of
27 the acts committed under Sections 2, 3, or 4 either originate

1 in or are received in this state. The purpose of this section
2 is to confer jurisdiction upon the courts of this state to the
3 maximum extent allowable under the Constitution of the United
4 States of America and the Constitution of Alabama of 1901.

5 Section 8. The record of a person convicted under
6 this act shall not be subject to expungement.

7 Section 9. It shall not be a defense to prosecution
8 under this act:

9 (1) That an undercover operative or law enforcement
10 officer was involved in the detection and investigation of an
11 offense; or

12 (2) That a meeting as described in this act did not
13 occur.

14 Section 10. Section 13A-6-110, Code of Alabama 1975,
15 is repealed.

16 Section 11. The provisions of this act are
17 severable. If any part of this act is declared invalid or
18 unconstitutional, that declaration shall not affect the part
19 which remains.

20 Section 12. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, now
24 appearing as Section 111.05 of the Official ReCompilation of
25 the Constitution of Alabama of 1901, as amended, because the
26 bill defines a new crime or amends the definition of an
27 existing crime.

1 Section 13. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.